
Missouri State Highway Patrol
Criminal Justice Information Services Division



**Report On Criminal History
Background Checks**

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Introduction

Criminal history record information has a variety of uses in today's society. Criminal justice agencies use the records for investigations, prosecutorial decisions, sentencing, release decisions, etc. In addition to law enforcement use, the number of requests for criminal record checks by the non-criminal justice community is increasing tremendously. Employment background checks for teachers, school bus drivers, health and child care workers, licensing, and firearm purchases are among the most common requests.

The need for a timely, accurate, and complete criminal history is critical when employing or licensing persons for positions of trust in our society, especially for those who work with children, the elderly, or persons with disabilities.

The Missouri Criminal Records Repository (MCRR), also known as the Central Repository, located within the Missouri State Highway Patrol's (MSHP) Criminal Justice Information Services (CJIS) Division is responsible for compiling and disseminating complete and accurate criminal history records and for the compiling, maintaining, and dissemination of criminal incident and arrest reports and statistics. Criminal history record information is collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information or other formal criminal charges, and any disposition arising there from sentencing, correctional supervision, and release.

Although the Central Repository's primary function is for the administration of criminal justice, the records retained within the repository are available also for non-criminal justice purposes. The state allows both a personal identifier (name-based) search and fingerprint-based search of the repository records. Laws governing the dissemination of open and closed record information are regulated by state statute.¹ In the near future, access to criminal history record information from the state repository for name-based searches will be available through the Internet. Along with Internet access, Missouri is actively pursuing "rap back" notification to employers and state entities, which will consist of flagging an individual's fingerprints and providing an email notification when criminal charges are received on a previously supplied fingerprint-based criminal record check request.

In summary, it is the Criminal Justice Information Services Division's expectation and goal that this document will assist agencies - public, private, and state - with criminal history record information and be informative regarding the functions and responsibilities associated with providing criminal history record information.

¹ Chapter 610, Section 610.120 RSMo.

Overview

Missouri Criminal Records Repository

The Missouri State Highway Patrol (MSHP), also known as “Patrol”, has been the state repository for fingerprint and criminal arrest record information since 1934 when the Bureau of Identification was established within the Patrol. The Bureau of Identification was renamed to the Criminal Records & Identification Division in 1987 and again renamed in 2009 to the Criminal Justice Information Services (CJIS) Division. Although the Patrol has been collecting criminal arrest data in Missouri since the 1930’s, the Patrol was not officially designated by legislature as the Central Repository until 1987. Prior to 1987, many law enforcement agencies submitted their arrest data and fingerprints directly to the Federal Bureau of Investigation (FBI). Chapter 43, Section 43.500 through Section 43.650, Missouri Revised Statutes (RSMo), made reporting criminal history actions to the Central Repository mandatory for all law enforcement agencies, prosecutors, clerks of the courts, and corrections facilities in Missouri.

The Central Repository is the sole source communicator of Missouri criminal history record information to the Federal Bureau of Investigation’s (FBI’s) criminal history database, the Interstate Identification Index (Triple I, or III).² The rationale for requiring the submission of fingerprints through a state record repository is based on the fact that the FBI-maintained records are not as complete as the records maintained at the state level. The state may have records of offenses that have not been forwarded to the FBI because of the FBI’s previous limitation of III submissions to records relating to misdemeanors or felonies. Also, some records may not have been accepted by the FBI because the supporting fingerprints did not meet quality standards. The FBI’s records also contain limited information about dispositions of arrest records while state records have a higher percentage of dispositions.

Under the state statutes, Missouri law enforcement officers, prosecuting attorneys, clerks of the courts, departments of corrections, sheriffs, and other criminal justice agencies are instructed to supply the repository with arrest, charge and disposition information for filing without “undue delay”. Undue delay is defined under Missouri statute as less than 30 days after the reportable event (arrest).³

The overall duties and responsibilities placed on the Central Repository are to collect, maintain, and disseminate to law enforcement and the public criminal history record information as applicable per law.

² The Interstate Identification Index or III, is a segment of IAFIS (Integrated Automated Fingerprint Identification System) and is the national system designed to provide automated criminal history record information to participating states.

³ Chapter 43, Section 43.503.8 RSMo.

FBI Criminal Record Database

An automated database, Triple I or III, integrates criminal history records, including arrest information and corresponding disposition information, submitted by state, local, and federal criminal justice agencies.⁴ This database was initially created for the use of government agencies involved in the administration of criminal justice functions; however, over time, the use of this information has been authorized for numerous non-criminal justice purposes, such as background screening for employment and licensing in industries that either state governments or the federal government have decided to regulate in some manner.⁵ The III system is quite comprehensive in its coverage of nationwide arrest records for serious offenses⁶.

Fingerprint identification has been a major responsibility of the FBI since 1924, and fingerprints have been a key part of the FBI's national criminal history record system.⁷ The FBI's Criminal Justice Information Services (CJIS) Division was established in February 1992, to serve as the focal point and central repository for criminal justice information services in the FBI. It is the largest division within the FBI and is responsible for administering several programs, including the Integrated Automated Fingerprint Identification System (IAFIS), the National Crime Information Center (NCIC), including the national criminal history record index (the III) and other files of interest to law enforcement, such as those relating to wanted persons, civil protection orders, registered sex offenders, and missing persons, and the National Instant Criminal Background Check System (NICS) which processes background checks on prospective purchasers of firearms from federal firearm licensees.⁸

⁴ Information obtained from *The Attorney General's Report on Criminal History Background Checks*, June 2006, Section III, Page 13.

⁵ Public Law 92-544.

⁶ A serious offense is an offense not classified as a petty offense and usually carries at least a six-month sentence. (Black's Law Dictionary, Seventh Edition).

⁷ The National Criminal Records System provides a review of the criminal history records maintained by the Federal Bureau of Investigation and is stipulated in Chapter 43, Section 43.540 RSMo.

⁸ Information obtained from *The Attorney General's Report on Criminal History Background Check's*, June 2006, Section III, Page 14.

I. Missouri Criminal History Records

The state Criminal History Record Information (CHRI) System is housed within the Missouri Uniform Law Enforcement System (MULES) and maintained within the Criminal Justice Information Services (CJIS) Division.

Criminal history record information is submitted to CJIS Division by means of the charge information contained on the state criminal fingerprint card and is tracked by means of the Offense Cycle Number (OCN). After the fingerprints have been identified through the Automated Fingerprint Identification System (AFIS) and matched to or assigned a State Identification number (SID), the information is automatically entered into criminal history for the individual, thus making the fingerprint card the most critical element when creating a criminal history record and is especially important due to criminals providing alias information or committing identity theft. Without the fingerprint card, criminal history record information will not be present.

While establishment of a criminal record relies on the initial fingerprint card submission, an accurate and complete criminal history record relies on cooperation between all criminal justice reporting agencies. At each point in the criminal history reporting process, a disposition is required on the action taken by each reporting agency.

A. Authority

In 1986, the 83rd General Assembly of the state of Missouri passed House Bills 873 and 874. These bills were introduced and overwhelmingly passed based on the premise of the need to protect victims of violent crimes and the need to provide a greater voice to those impacted by crime. On May 12, 1986, legislation was signed and the bills became law in August 1986. Chapter 43 of the Missouri Revised Statutes formally designated the Bureau of Identification as the Central Repository. As a result of the passing of these bills, the Missouri State Highway Patrol's Bureau of Identification was designated as the Central Repository for compiling, storing and disseminating criminal history record information. The bill further required the mandatory reporting of all felony and serious or aggravated misdemeanor criminal arrest information by law enforcement personnel, prosecuting attorneys, courts, Department of Corrections and the Department of Mental Health. In 1991, the Bureau of Identification was renamed to Criminal Records and Identification Division and in 2009, renamed to Criminal Justice Information Services (CJIS) Division. The division currently functions under the Technical Services Bureau within the Missouri State Highway Patrol.

B. Mules

The Missouri Uniform Law Enforcement System (MULES) is a network implemented in 1969 within the Information Systems Division (ISD) of the MSHP. MULES originated as a computerized information system to serve all criminal justice agencies in Missouri. The system provides a way for MULES users to enter, maintain, and inquire on records pertaining to areas of interest which includes a search engine that handles the control processing of the data, parts, plates, boats, vehicles, and persons. MULES provides on-line screens for authorized users and asynchronous procedures for agencies that interface to MULES so they may inquire, enter, modify, locate, clear, and cancel information on boats, stolen vehicles, towed vehicles, stolen and missing license plates, stolen parts, wanted persons, and missing persons. The system also allows for any necessary reporting and batch update procedures needed by law enforcement agencies or those mandated by NCIC to maintain the integrity of the system. Criminal history record information is a component of MULES that retains arrest information, prosecutor and court actions, along with any sentencing that an individual has incurred within the criminal justice system.

C. OCN

The OCN represents the Offense Cycle Number and is also referred to as the tracking number of the arrest. Each OCN in a criminal history record represents an arrest. When an individual is arrested and fingerprinted, the OCN is generated from the fingerprint card and is entered into criminal history after the prints are identified through AFIS. When a Record of Arrest and Prosecution (RAP) sheet is run on an individual that has criminal history, each OCN present will indicate a separate arrest. There may be one or more charges present with each OCN. The OCN is crucial to prosecutors and courts when submitting prosecutor action and court disposition to the Central Repository.

D. SID

The SID represents the State Identification number assigned to the fingerprints of an individual upon submission of the first set of fingerprints to the Central Repository. A SID number does not constitute a criminal record. Every person fingerprinted in Missouri, whether for civil process such as employment purposes, licensing, etc., or from a criminal arrest card stemming from an arrest by law enforcement, will have an assigned SID once the fingerprints are processed through AFIS. This SID number for Missouri will accompany the individual throughout their life and will never change.

Other states have corresponding SID numbers as well. The FBI also assigns an FBI number, similar to a SID, upon receipt of the initial arrest fingerprints. If an individual has criminal history in other states, generally this will be present on the RAP sheet generated from the FBI.

E. The Missouri Charge Code Manual

The Missouri Charge Code Manual, published by the Missouri State Highway Patrol in conjunction with the Office of State Courts Administrator (OSCA), contains applicable statute and arrest codes used by criminal justice agencies.⁹ The information contained within the Charge Code Manual delineates between felony and misdemeanor charges and classifies each offense according to statute. Arrest information contained on the fingerprint card will be indicative of the codes provided in the Charge Code Manual. The Charge Code Manual is a necessary tool for use by criminal justice agencies in order to report Missouri offense information into criminal history.¹⁰

F. Arresting Agency Information

It is the responsibility of the arresting agency to complete a criminal fingerprint card for any reportable offense listed in the Missouri Charge Code Manual.¹¹ The completed fingerprint card should include all appropriate demographic information of the individual, applicable charges and disposition, and fingerprint images. The completed card should be mailed or transmitted electronically via livescan device to the Central Repository without undue delay.¹²

G. Prosecuting Attorney Information

It is the responsibility of the prosecuting attorney to report action taken on each arrest charge forwarded from the arresting agency. When prosecutor action is received on an arrest charge, the information is attached to the arrest information by the OCN and then maintained in MULES. Once updated, prosecutor action will appear in criminal history and on the RAP sheet of the subject. The OCN is crucial when linking arrest data and prosecutor action. The prosecutor has unlimited discretion pertaining to the filing of charges, and, therefore, there may be instances when the charge filed by the prosecutor may not match the original charge submitted on the criminal fingerprint card.

⁹ Chapter 43, Section 43.512 RSMo.

¹⁰ Chapter 43, Section 43.506.1 RSMo.

¹¹ Chapter 43, Section 43.506 RSMo.

¹² Chapter 43, Section 43.503 RSMo.

H. Court Disposition Information

The state court clerks are responsible for reporting all final dispositions of criminal cases using the OCN that initiated from the original arrest. The dispositions are

reported through the Office of State Courts Administrator by using the Justice Information System (JIS).¹³ The court is also responsible for providing the Department of Corrections and Department of Mental Health with the OCN for those individuals sentenced or committed to their custody.¹⁴

Information and fingerprints, and other indicia forwarded to the Central Repository, normally obtained from a person at the time of the arrest, may be obtained at any time the subject is in the criminal justice system or committed to the Department of Mental Health. A law enforcement agency or the Department of Corrections may fingerprint the person and obtain the necessary information at any time the subject is in custody. If at the time of disposition, the defendant has not been fingerprinted for an offense in which a fingerprint is required by statute to be collected, maintained, or disseminated by the Central Repository, the court shall order a law enforcement agency to fingerprint immediately the defendant. The law enforcement agency shall submit such fingerprints to the Central Repository without undue delay and within 30 days and shall furnish the OCN associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of the court ordering the subject fingerprinted.¹⁵

Unlike state courts, municipal courts are not required to report cases through JIS and, therefore, need to submit the dispositions, either by electronic medium or by paper submission, directly to the Central Repository.

I. Reporting By Department Of Corrections And Mental Health

The Department of Corrections and the Department of Mental Health shall furnish the Central Repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, legal name change, or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained, or disseminated by the Central Repository. All records forwarded to the Central Repository by the department as required by sections 43.500 to 43.543 shall include the OCN of the offense, and the originating agency

¹³ The JIS (Justice Information System) is an automated court system administered through the Office of State Courts Administrator and allows participants in the judicial process and private citizens access to court information throughout the state of Missouri electronically.

¹⁴ Chapter 43, Section 43.503.8 RSMo.

¹⁵ Chapter 43, Section 43.503.8 RSMo.

routing identifier (ORI) number of the department using such number as assigned by the Patrol.¹⁶

J. Fingerprint Identification

Criminal identification by means of fingerprints is one of the most potent factors in obtaining the apprehension of fugitives who might otherwise escape arrest and continue their criminal activities indefinitely. Fingerprint identification also makes possible an accurate determination of the number of previous arrests and convictions which, of course, results in the imposition of more equitable sentences by the judiciary, inasmuch as the individual who repeatedly violates the law finds it impossible to pose successfully as a first, or minor, offender. The use of fingerprints for identification purposes is based upon distinctive ridge outlines, which appear on the bulbs on the inside of the end joints of the fingers and thumbs. Of all the methods of identification, fingerprinting alone has proved to be both infallible and feasible.¹⁷

1. AFIS

The Automated Fingerprint Identification System (AFIS) was installed at the central repository in 1989. AFIS, which is maintained within the CJIS Division, enhanced the efficiency of criminal identification and fingerprint processing with the utilization of electronic comparison and matching of fingerprint images. AFIS was purchased in 1988 from Sagem Morpho Inc., a high technology imaging corporation located in Tacoma, Washington, that specializes in computerized fingerprint matching systems. AFIS is a computer system that electronically images and stores the characteristics of fingerprint patterns. Like any good computer system, it is only as good as the images received and entered into the system. Therefore, it is extremely important for fingerprint submissions to be of the best possible quality.

Quality fingerprint impressions will ensure ridge detail and pattern characteristics of images sufficient enough to search against the unsolved latent database and improving the likelihood of a positive match being made on a latent fingerprint.¹⁸ Any fingerprint submission received at the repository is automatically searched against the existing database and the database containing unsolved latents. AFIS began with 400,000 initial fingerprints and is currently comprised of over two million ten-prints and over 60,000 unsolved latent prints. Ten-prints represent a full set of rolled impressions containing data on all 10 digits. Fingerprint images are entered into AFIS electronically;

¹⁶ Chapter 43, Section 43.503.9 RSMo.

¹⁷ United States Department of Justice, Federal Bureau of Investigation, *The Science of Fingerprints*, Revised 12-84, pages iii-iv.

¹⁸ A latent print is an image obtained from a crime scene, and it may be a partial print of any section of the fingers, thumbs, and palms.

therefore, when prints are received by ink methods instead of livescan, the ink prints are scanned to create digital images for processing through AFIS and IAFIS.

2. Information Technology Infrastructure

The AFIS database is maintained and monitored through the Information Systems Division (ISD) of the Missouri State Highway Patrol and is located on the third floor of the Annex Building at General Headquarters in Jefferson City, Missouri. In addition to ISD serving as the information center for criminal justice applications for Missouri State Highway Patrol, the computer center serves as the repository for all statewide-computerized criminal history information.

3. Livescan Technology

There is little doubt that technology has dramatic influence in the day-to-day operations of an agency and law enforcement is no exception. Since 1989, biometric technology has been a driving force in Missouri. Electronic submission via livescan device, implemented in 1999, allows for the electronic imaging and submission of fingerprints, personal data, and arrest charges to be electronically transmitted to the central repository within minutes from the contributing law enforcement agency.

With funds made available through law enforcement grants, numerous police departments and sheriff offices throughout Missouri were afforded the ability to receive a livescan device. The positive impact of the grants and funds made available to law enforcement will continue to affect the receipt and processing of criminal arrest data and fingerprints providing more accurate arrest data and also serves to ensure officer safety.

Currently, over 90% of Missouri counties have livescan capability for the submission of arrest data, personal identifying information, and fingerprints. Livescan capability is also utilized by law enforcement when conducting background checks for conceal/carry permits, identification purposes, and sex offender registration. The electronic submission to the central repository provides law enforcement with the ability to conduct immediate identification on persons when identity is in question or for verification and registration purposes. Once identification is made, the criminal arrest data and caution codes are entered in MULES and the criminal response message is returned to the submitting agency within minutes. Unlike manual or ink submissions of criminal arrest data, livescan submissions provide law enforcement with vital information while the subject is possibly still in custody.

In 2009, livescan arrests comprised of approximately 192,000 fingerprint submissions versus 32,000 mail or manual arrest fingerprint card submissions. Missouri's criminal justice community continues to pursue technological advancements for the criminal history record system to enhance law enforcement and public safety efforts.

II. FBI Criminal History Records

The FBI maintains an automated database that integrates criminal history records, including arrest information and corresponding disposition information, submitted by state, local, and federal criminal justice agencies. Each state has a criminal records repository responsible for the collection and maintenance of criminal history records submitted by law enforcement agencies in its state. The state record repositories are the primary source of criminal history records maintained at the FBI.¹⁹

A. Authority

The basic federal authority for the attorney general to maintain criminal history information is found at 28 U.S.C. 534,²⁰ which provides that the attorney general shall “acquire, collect, classify, and preserve identification, criminal identification, crime and other records.” The law also provides for sharing of information by requiring the attorney general to “exchange such records and information with, and for the official use of, authorized officials of the federal government, including the United States Sentencing Commission, the states, cities, and penal institutions.” States are not required to provide information to the attorney general, but do so voluntarily in order to gain mutual benefit of having access to criminal history information on individuals from other states.²¹

B. FBI Criminal History Records

An FBI criminal history record is a listing of information on individuals collected and submitted with fingerprints by agencies with criminal justice responsibilities, such as the same provided to the state with arrests, detentions, information, or other formal criminal charges and any dispositions of the charges, such as dismissal, acquittal, conviction, sentencing, correctional supervision, release, and expungement or sealing orders. The record includes the name of the agency that submitted the fingerprints to the FBI, the date of arrest, the charges of arrest, and the disposition of the arrest, if known.

C. IAFIS

The Integrated Automated Fingerprint Identification System (IAFIS) is the FBI’s fingerprint identification system and integrates fingerprint records that have been

¹⁹ The Attorney General’s Report on *Criminal History Background Checks*, June 2006, United States Department of Justice, Section III, page 13.

²⁰ Section 534 of Title 28, USC, generally permits the dissemination of III and FIRS (Fingerprint Identification Record System) information to criminal justice agencies for “official use.” Section 534 is implemented in this regard by 28 CFR Part 20.

²¹ The Attorney General’s Report on *Criminal History Background Checks*, June 2006, United States Department of Justice, Section III, page 13.

sent to the FBI by the states, territories and federal law enforcement agencies. IAFIS provides automated fingerprint search capabilities, latent fingerprint searching capability, electronic image storage, and electronic exchange of fingerprints and responses 24 hours a day, 365 days a year. IAFIS allows for the automated submission and amendment of fingerprint-based criminal history records by the state record repositories, as well as automated fingerprint searches of the record. Paper fingerprint submissions are digitally scanned into the system.²²

D. The III

The Interstate Identification Index (III or also known as Triple I) is the national system designed to provide automated criminal history record information. The III is an index-pointer system that allows for the exchange of criminal history records. The III stores the criminal history records of federal offenders and records of offenders submitted by all states and territories. Under the III, the FBI maintains an index of persons arrested for felonies or misdemeanors under either state or federal law. In addition, the III contains FBI and state identification numbers (SIDs) from each state that has information on an individual. The III is the primary system through which the FBI accesses state-held data for background checks of firearm purchasers.

²² The Attorney General's Report on *Criminal History Background Checks*, June 2006, United States Department of Justice, Section III, page 14.

III. Non-Criminal Justice Background Checks

A. Criminal Record Requests

The term “non-criminal justice purposes” is defined by the National Crime Prevention and Privacy Compact (Compact Council)²³ as uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.²⁴

1. Authority

The authority for non-criminal justice agencies to request national criminal history record information is provided in state statute and specifies state agencies, purpose of search request, use and dissemination, and must be based on the submission of fingerprints. Chapter 43, Section 43.540 and 43.543 RSMo., directly address state agency requests for obtaining national criminal history record information.

Public Law (Pub. L) 92-544, passed by Congress in 1972, is an appropriations statute that provides funding to the FBI for acquiring, collecting, classifying, preserving, and exchanging identification records with duly authorized officials of the federal government, the states, cities, and other institutions. Under this federal law, health care employers have the ability to obtain federal criminal background checks of employees and job applicants, under certain conditions. First, there must be a state law authorizing health care employers to request such background checks from state and local government officials and second, the Attorney General of the United States must approve the authorizing state statute.²⁵ In response to these requirements, Missouri enacted Chapter 43, Section 43.540 RSMo.

The federal Freedom of Information Act (FOIA)²⁶ allows an individual to consent to the disclosure to third parties information about the individual from federal agencies. This includes access to an individual’s criminal history record maintained by the FBI. There are no restrictions regarding the purpose of a FOIA request and, therefore, an individual could make such a request for his or her FBI criminal record and either provide it to an employer or specify that

²³ The compact established a 15-member council whose members are appointed by the attorney general and represent state and federal agencies that are providers and users of FBI-maintained criminal history record information for non-criminal justice purposes. The council promulgates rules and procedures governing the exchange and use of III criminal history records for non-criminal justice purposes.

²⁴ The National Crime Prevention and Privacy Compact, Pub. L. 105-251, Art. I (18) 42 USC 14616.

²⁵ (http://www.dps.state.ak.us/statewide/background/pdf/PL92-544_backchks.pdf), “Federal Statutes Authorizing Criminal Background Checks for Nursing Facility Job Applicants and Employees”, retrieved October 17, 2007.

²⁶ The U.S. Freedom of Information Act (FOIA) is a law ensuring public access to U.S. government records.

the record be sent directly to an employer. FBI maintained the federal Privacy Act protects criminal history record information.²⁷ Its disclosure is prohibited absent consent from the individual who is the subject of the information or a state statutory exception that authorizes disclosure.

2. Personal Identifier Search

A personal identifier search, also known as a name-based search, can be processed using the name, date of birth, and social security number of an individual in order to search against the state criminal history database. Name-based searches are not allowed through the III except for law enforcement purposes. The response to a name-based search would provide only a “possible match” based on the search criteria provided on an individual. By completing a Criminal History Record Request form (SHP 158K) and submitting the form and appropriate fee to CJIS Division at the Central Repository, any individual/party may request a name-based search on any individual. Name-based searches provide only open records to the requesting party.

Searches based on personal identifiers in the criminal history record system present the risk of false positives (incorrectly associated a record with a person with a common name) and false negatives (missing a record associated with a person because he or she provided false identifying information) and should not be deemed accurate or final. When at all possible, fingerprints should be submitted when a named-based search response provides questionable information or when the individual disputes the information.

As stated, access through the III for name-based searches is only allowed for law enforcement purposes; however, there is one exception for non-criminal justice use. Name-based search requests are permitted when requested by the Juvenile Office or Children’s Division of the state when in conjunction with the emergency placement of children in exigent circumstances²⁸. The Juvenile Officer or Children’s Division of the state of Missouri will make the request to a law enforcement agency for a name-based search into the national database, III, using MULES. The inquiry will be for a response to the name(s) of the individual(s) of where the child will be placed. The requesting state agency is required to follow each request with fingerprints and with the appropriate fees within 15 days of the initial request. It is not the responsibility of the law enforcement agency that performed the inquiry to submit fingerprints. The responsibility of the fingerprint submission after the III inquiry is

²⁷ 5 USC Section 552a.

²⁸ Exigent circumstances -- is in reference to a sudden unexpected event that results in an apparent risk to the health and safety of an individual which necessitates immediate action on the part of the state to provide protection to that individual. (http://en.wikipedia.org/wiki/Exigent_circumstance).

placed solely with the requesting state agency and is subject to audit by both state and federal regulators.²⁹ Generally, name-based searches through III are only performed by law enforcement in the performance of duty where access to fingerprints is not available or time is of the essence, such as during a traffic stop. When this occurs and the search results in a hit warranting an arrest, the arrest is generally followed by the collection of fingerprints, allowing for the positive identification of the arrested individual.

3. Fingerprint-Based Search

A fingerprint-based search will produce a positive match response when matched to a criminal history record in the state and national databases. To date, there has not been a set of fingerprints matching two different individuals. Even twins, who have the same DNA, will not possess the same set of identical fingerprints. All fingerprint submissions received at the Central Repository are automatically searched against the existing database, which also includes a database of unsolved latent prints (prints lifted from crime scenes). Fingerprints received in AFIS are simultaneously transmitted to IAFIS.

A fingerprint-based search can be processed through the state central repository for various reasons. Depending on the requestor and the purpose for the fingerprint search, the response, if applicable, will be sent to the requestor. All appropriate fees must be paid prior to processing. If the request is for both a state and federal search, processing fees for both state and FBI will apply.

B. Fingerprint Locations And Services

Fingerprint services for the public are available throughout Missouri primarily through law enforcement agencies. In addition to these agencies, Missouri has contracted with an independent vendor in order to expedite applicant requests. For best results and to minimize rejections of submitted fingerprints, it is recommended that one of the following agencies be contacted for assistance with fingerprinting needs.

1. Missouri State Highway Patrol

The Missouri State Highway Patrol's Public Window, located at General Headquarters Annex Building, 1510 East Elm Street, in Jefferson City, Missouri, is open to the public Monday through Friday from 8:00 a.m. to 4:00 p.m. daily. State and federal holidays are observed, and therefore, record checks will not be available on those days. Requests submitted in person at the Patrol's public window for a Missouri state search based on personal iden-

²⁹ Chapter 210, Section 210.482 RSMo.

tifiers (name-based) or fingerprints can be processed within approximately thirty minutes. In addition to the Patrol's public window for fingerprinting needs, there are nine MSHP troop locations that may assist with fingerprint needs for manual submission.

2. Other Law Enforcement

County sheriff departments and local police departments throughout the state of Missouri may also assist the public with fingerprint needs. Although several law enforcement agencies have access to a livescan device,³⁰ they are not permitted to transmit applicant background checks for the public, unless the request is for a conceal and carry weapon permit or for a registration requirement of a convicted sex offender. The law enforcement agency may use the livescan device in lieu of ink fingerprinting to capture the required information; however, if printing for the public for reasons other than stated above, they must print out the fingerprint card on the livescan printer and hand the card to the applicant for mailing to CJIS Division with applicable fees. Law enforcement agencies that transmit applicant fingerprint cards without authorization³¹ are subject to all applicable fees.

3. Missouri Applicant Processing Services (MOAPS)

In addition to law enforcement agencies assisting with fingerprinting needs for the public, fingerprinting services are provided through the Missouri Applicant Processing Services (MOAPS). MOAPS is a partnership of the Missouri State Highway Patrol CJIS Division and L-1 Identity Solutions L-1 Enrollment Services, a Division of L-1 Identity Solutions (L-1). The partnership with L-1 began in April 2005 after the Missouri competitive bid process was finalized. The agreement with L-1 initiated with a contract period of two years, with options to renew yearly for the next five years. When utilizing the fingerprint services offered through MOAPS, non-criminal justice state or state and federal background requests are processed electronically and submitted from the vendor directly to the central repository for processing. MOAPS is the only authorized agency permitted to transmit applicant background check requests for the public. MOAPS fingerprint technicians are located throughout the state and provide a fast and efficient manner of submitting applicant fingerprint requests. With the capability of submitting electronically,

³⁰ Livescan is the electronic image capture of fingerprints. Livescan devices have the capability to electronically transmit data and fingerprint images directly to the Central Repository.

³¹ Law enforcement agencies may use a livescan device to transmit applicant fingerprint information if authorized by state statute (Section 571.101 RSMo, Section 43.535 RSMo., Section 589.400 to 589.425 RSMo.), for law enforcement employment or for identification purposes.

the time required to process applicant fingerprint requests is reduced from weeks to days. For more information pertaining to fingerprint services offered through MOAPS, please access the MSHP website, under publications, brochures at www.mshp.dps.missouri.gov.

C. Fees

Fees are established pursuant to Chapter 43, Section 43.530 RSMo. The statute stipulates that a fee of not more than \$9 per request for criminal history record information not based on a fingerprint search is required. In each year beginning on or after January 1, 2010, the superintendent (Patrol) may increase the fee paid by requesting entities by an amount not to exceed \$1 per year; however, under no circumstance shall the fee paid by requesting entities exceed \$15 per request. The statute further stipulates requests based on fingerprints will be a fee of not more than \$20 per request unless the request is required under the provisions of subdivision (6) of Section 210.481, RSMo., Section 210.487, RSMo., or Section 571.101, RSMo., in which case the fee shall be \$14. A request made under subsections one and two of this section shall be limited to check and search on one individual. Payment of fees should be in the form of check or money order payable to the "Missouri State Criminal Record System Fund".

1. Personal Identifier (Name-Based) Background Search

The current fee for a name-based search is \$10 per request. However, in 2011 the fee may increase by \$1 and yearly increases of \$1 are allowed in statute not to exceed \$15. The response, if any, will provide open record information.

2. Fingerprint-Based Background Search

A state fingerprint-based search requires a \$20 fee, with the exception of requests for conceal-carry weapons permits pursuant to Section 571.101 RSMo., and the Department of Social Services for foster care placement, pursuant to Section 210.487 RSMo., which will remain at \$14 per request. The response will include complete records (both open and closed) and will be sent to the individual or qualified entity.

3. FBI Submission

The FBI fee is \$19.25 for a fingerprint-based search and \$15.25 when the request is for a volunteer. The FBI charges an \$18 fee when an applicant sends a fingerprint-based request directly to the FBI.

4. Payment Method

Payments made to the Missouri State Highway Patrol are required in the form of check or money order; cash is not accepted, and should be made payable to “Missouri State Criminal Record System Fund”. Fees that require both state and federal payment may be combined into one payment (check or money order). Monthly billing procedures also may be established through the accounting section within CJIS Division. Inquiries regarding establishing an account for billing should be directed to CJIS Division at telephone number (573) 526-6153. For applicants submitting federal background checks directly to the FBI (the \$18 fee), payment should be made payable to the FBI and mailed to “FBI, CJIS Division, Attn: SCU, MOD.D-2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26303.

D. Response Time

With the growth and use of Missouri’s computerized criminal history record system, the response time for requests of criminal history information has greatly improved from previous years. With the advances of livescan transmissions for both law enforcement and authorized civilian personnel, inquiries into the criminal history database are more efficient and expedient. For example, in previous years, processing time for criminal and applicant fingerprint cards received by mail processed within approximately 12 to 16 weeks. However, with the advancement and availability of livescan, processing times have decreased. Applicant fingerprint requests received via mail generally process within two to four weeks and livescan transmissions process within five to 10 business days. Criminal fingerprints cards received via mail process within approximately two weeks, and livescan transmissions process within hours with FBI responses taking less than 24 hours.

E. Dissemination

The central repository disseminates open and closed criminal history record information. The distinction between the two types of records is determined by: (1) the type of request, (2) who is requesting, and (3) authority. State and federal laws place restrictions on the dissemination of criminal history record information.³² Missouri statutes addressing Public Law 92-544 include Section 43.540 through 43.543 RSMo. and Section 610.120 RSMo. Section 43.540.5 RSMo. specifically addresses that dissemination of criminal history information from the Federal Bureau of Investigation (federal background check) beyond the authorized state agency

³² Public Law 92-544 “no governmental agency shall disclose any records to any person or agency unless prior written consent is received from the individual or it is used by the agency to perform the duties of the agency.”

or related governmental entity is prohibited. All criminal record check information shall be confidential and any person who discloses the information beyond the scope allowed is guilty of a class A misdemeanor. Under the Adam Walsh Child Protection and Safety Act of 2006 (otherwise known as the “Act”), Section 153(e) provides that “A individual having information derived as a result of a check under subsection (b) of the “Act” may release that information only to appropriate officers of child welfare agencies, public or private elementary or secondary schools, or educational agencies or other persons authorized by law to receive that information.” Section 153(f) provides that “An individual who knowingly exceeds the authority in subsection (b), or knowingly releases information in violation of subsection (e), shall be imprisoned not more than 10 years or fined under Title 18, United States Code, or both”. Title 28, Section 20.33 (7) (b) states “the exchange of criminal history record information authorized by paragraph (a) of this section is subject to cancellation if dissemination is made outside the receiving departments, related agencies, or service providers identified in paragraphs (a)(6) and (a)(7) of this section”. Criminal history records received from the III system shall be used only for the purpose requested and a current record should be required when needed for a subsequent authorized use.³³

1. Open Records

Open record information is provided when the request is made based on personal identifier (name-based) search requests. The search response will include (1) records containing convictions, (pled guilty to, or convicted of), (2) arrest information that is less than 30 days old from the date of arrest, (3) filed charges by the prosecutor that are awaiting final disposition from court, and (4) records that contain a suspended imposition of sentence (SIS) during the probation period.³⁴

An applicant will never receive closed or complete record information when conducting a personal identifier (name) request. The information provided is not guaranteed since the information was not verified through the submission of fingerprints.

2. Closed Records

Closed record information is disseminated from fingerprint-based search requests and will be given to the individual or qualifying entity pursuant to state law.³⁵ The records disclosed will include: (1) all criminal history data,

³³ Title 28, Code of Federal Regulations, Part 20, Subpart C, Section 20.33 (7)(d).

³⁴ Chapter 610, Section 610.120 RSMo.

³⁵ Chapter 43, Section 43.530 RSMo.

including all arrests (filed or not filed charges), (2) charges that have been nolle prossed, dismissed, or found not guilty in a court of law, and (3) will include any SIS after the probation period is complete. SIS after probation, contrary to what some individuals may be advised, will not be removed from criminal history. The SIS will become a closed record and depending on the requesting entities authority, the information may be disseminated. The only process available for removal or deletion of arrest information from the state and national databases is through the process of expungement. For information regarding expungement, please refer to “Expungement Information” on page 22 of this document.

Closed record information is disseminated to sheriff departments for use in determining eligibility of permits for conceal and carry of weapons and is also available to municipalities that have passed ordinances pursuant to Chapter 43, Section 43.535 RSMo. In addition, closed record information is available to any business or organization providing care placement or educational services for children, elderly, or disabled persons and may be requested for current employees, potential employees or volunteers.³⁶

3. FBI Records

FBI criminal history record information obtained through appropriate authority contains all arrest information. The FBI does not differentiate between open and closed record information.

F. Outsourcing

Outsourcing incorporates the process of a third party to perform non-criminal justice administrative functions relating to the processing of criminal history record information (CHRI) maintained in the III, subject to appropriate controls, when acting as an agency for a governmental agency or other authorized recipient of CHRI.

The Compact Council published a Final Rule in the Federal Register³⁷ regarding a Security and Management Control Outsourcing Standard, which became effective December 15, 2005. The goal of the Outsourcing Standard is to permit the outsourcing (delegation of non-core operations from internal production to an external entity specializing in the management of that operation) of non-criminal justice functions related to processing criminal history record information from III. The Outsourcing Standard permits a governmental agency or other authorized recipient of criminal history record information to select a private or governmental

³⁶ Chapter 43, Section 43.540 RSMo.

³⁷ The Federal Register is the official daily publication for rules, proposed rules, and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

agency to perform these non-criminal justice administrative functions on behalf of the governmental or authorized agency, subject to appropriate controls.

The Outsourcing Standards establishes minimum standards to ensure that security and privacy requirements are satisfied when conducting FBI criminal history records checks for non-criminal justice purposes. The contracting parties may not reduce these minimum standards; however, they may adopt more strict standards than required by this standard.

To ensure agencies follow these minimum standards, the Outsourcing Standard provides that contracts and agreements authorized by this rule “shall incorporate by reference a Security and Management Control Outsourcing Standard approved by the Compact Council after consultation with the United States Attorney General”. This document is for contractors having access to criminal history record information on behalf of an authorized recipient for non-criminal justice purposes as well as contractors that only pass, or channel, non-criminal justice criminal history record check requests and results between the authorized recipient and the FBI.

The Outsourcing Standard identifies duties and responsibilities for adequate security controls between the authorized recipient and the contractor in order to maintain the security, accuracy and reliability of the III system and criminal history record information.³⁸

Missouri governmental agencies that obtain national criminal history record checks for non-criminal justice purposes under an approved Public Law 92-544 statute may utilize the Compact Council’s³⁹ Outsourcing Standard to permit a contractor, or contractors, to perform the administration of non-criminal justice functions associated with national criminal history records on behalf of the authorized government recipient. This includes forwarding the FBI record to a third party subcontractor to determine employment or licensing eligibility at the lowest agency level.

For more information on the Outsourcing Standard, please contact the state compact officer at the following address: Captain Timothy P. McGrail, director, Criminal Justice Information Services Division, Missouri State Highway Patrol, 1510 E. Elm Street, P. O. Box 9500, Jefferson City, Missouri 65102.

G. Challenging Authenticity Of Criminal Records

A review of a state disseminated criminal history record may be requested by the individual that the record implicates. This request is also known as a “challenge” and may be made in person at the Missouri State Highway Patrol, General Headquarters, Public Window located in the Annex Building, in Jefferson City or via mail with the submission of fingerprints. Generally, most challenges are in response to a

³⁸ Georgia Crime Information Center document on “Outsourcing Review of Criminal History Records”. http://www.ga.cogentid.com/GA_DOCS_html/Outsourcing_Narrative_09102007.htm.

³⁹ The National Crime Prevention and Privacy Compact establishes standards and processes for exchanging criminal history records among states and between states and the FBI for non-criminal justice purposes such as licensing or employment.

“match” from a name-based search performed on an individual and is based on the personal identifying information, i.e., name, date of birth and/or social security number. Because a name-based search is not positive proof of an individual’s identity, the submission of fingerprints is required in order to make a positive match. There is no fee associated with a challenge request when the record was disseminated from the MSHP. Criminal history record information received through other sources that were not funneled through the MSHP are not considered challenges and, therefore, fees will apply. Upon receipt of the request and fingerprints, AFIS will process the fingerprints for identification and the criminal history record information (if any) will be reviewed in accordance with the fingerprint match. Certified documentation will be supplied to the requesting entity upon completion of findings.

If an individual or applicant wishes to correct a record as it appears in the FBI’s CJIS Division records system, the applicant should be advised that the procedures to change, correct, or update the record are set forth in Title 28, CFR, Section 16.34. When explanation of a charge or disposition is needed, communication should be made directly to the agency that furnished the data to the FBI.

If an individual has been the victim of identity theft, the individual that is affected by such theft is provided recourse action through state statute.⁴⁰ In order to have information removed from a criminal history record, i.e., name, date of birth and/or social security number, a person must follow procedures typical to that of expungement procedures. Any person who is the victim of a false impersonation and whose identity has been falsely reported in an arrest or conviction record(s), may move for expungement and correction of said records under the procedures set forth in Chapter 610, Section 610.123 RSMo.

H. Expungement Information

Any person who wishes to have a record of arrest expunged (i.e., deleted, erased) pursuant to Chapter 610, Section 610.122 RSMo, may file a verified petition for expungement in the civil division of the circuit court in the county of the arrest as provided in subsection 4 of Section 610.123.1. The petition should include the petitioner’s full name, sex, race, date of birth, driver’s license number, social security number, address at the time of arrest, the offense charged against the petitioner, the date the petitioner was arrested, the name of the county where the petitioner was arrested, and if the arrest occurred in a municipality, the name of the municipality, the name of the agency that arrested the petitioner, the case number, and court of the offense.

Petitioner is required to also provide fingerprints on a standard fingerprint card at the time of filing a petition. The fingerprints will be forwarded to the central repository for the sole purpose of positively identifying the petitioner. Thus, the

⁴⁰ Chapter 575, Section 575.120(4) RSMo.

fingerprints should be taken either by livescan device or ink on an applicant format card and not on a state criminal card. The petition should name as defendants all law enforcement agencies, courts, prosecuting attorneys, central state repositories of criminal records, or others who the petitioner has reason to believe may possess the records subject to expungement. The court's order shall not affect any person or entity not named as a defendant in the action. It is important for persons filing expungement petitions to name the Missouri State Central Repository and FBI, otherwise, the criminal history databases that house the criminal history record information for the state and FBI will not be cleared of the arrest(s) named in the petition should the petition be granted.

The court is required to set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each official, or agency, or other entity named in the petition.

If the court finds that the petitioner is entitled to expungement of any record that is the subject of the petition, it shall enter an order directing expungement. Upon granting of the order of expungement, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. A copy of the order shall be provided to each agency identified in the petition.⁴¹

Pursuant to Section 610.122 and notwithstanding other provisions of law to the contrary, any record of arrest recorded pursuant to Section 43.503, RSMo., may be expunged if the court determines that the arrest was based on false information and the following conditions exist: (1) There is no probable cause, at the time of the action to expunge, to believe the individual committed the offense; (2) No charges will be pursued as a result of the arrest; (3) The subject of the arrest has no prior or subsequent misdemeanor or felony convictions; (4) The subject of the arrest did not receive a suspended imposition of sentence (SIS) for the offense for which the arrest was made or for any offense related to the arrest; and (5) No civil action is pending relating to the arrest or the records sought to be expunged.

It is important to note that an expungement of an arrest record does not reflect on the validity of the arrest and should not be construed to indicate a lack of probable cause for the arrest. As stated in statute, except as provided by Sections 610.122 to 610.126 the courts of Missouri shall have no legal or equitable authority to close or expunge any arrest record. The petitioner shall not bring any action subsequent to the expungement against any person or agency relating to the arrest described in the expunged records.⁴²

The Quality Control Section located within the Criminal Justice Information Services Division reviews and handles expungement requests. Correspondence or

⁴¹ Chapter 610, Section 610.123 RSMo.

⁴² Chapter 610, Section 610.126 RSMo., (expungement does not deem arrest invalid--department of revenue may retain records necessary for administrative actions on driver's license--power to close or expunge record, limitation.)

questions pertaining to expungements should be forwarded to the Missouri State Highway Patrol, Criminal Justice Information Services Division, Attention: Quality Control, P. O. Box 9500, Jefferson City, Missouri 65102.

IV. Additional CJIS Division Programs

A. Sex Offender Registration Information

The Sex Offender Registry was created in response to the Missouri Legislature's resolution to facilitate public access to available information about persons registered as sexual offenders. The information on the website refers only to persons who have been convicted of, found guilty of, or plead guilty to committing or attempting to commit sexual offenses and may not reflect the entire criminal history of a particular individual.

The Revised Statutes of Missouri, Chapter 589, Sections 400 - 426, and Chapter 43, Section 43.650 RSMo. mandate that the Missouri State Highway Patrol shall maintain a sex offender database and website on the Internet that is accessible to the public. The information contained on the website can change at any time so the current residence, status, or other information regarding an offender may not be accurate. Though much of the information is of record, some information is gathered from the offenders themselves who may fail to provide accurate or required information. Additional information and verification may be obtained from the chief law enforcement official (sheriff) of the county where the sex offender resides.

The sex offender registry section of the MSHP is located within the Criminal Justice Information Services Division at General Headquarters in Jefferson City, Missouri. In addition to a website, a toll free number for sex offender information is available for individuals wanting to speak to a person or do not have Internet access. The toll free number is 1-888-SOR-MSHP or 1-888-767-6747 and is answered from 7 a.m. until 7 p.m. Monday through Friday. The toll free number was established pursuant to Chapter 589, Section 589.407 RSMo. and is also listed on the Patrol's website. It is important to note that an inquiry of a person and the information provided regarding a person believed to be a sexual offender could not be established as positive identification unless a fingerprint comparison is made, and that it is illegal to use such information regarding a registered sexual offender to facilitate the commission of a crime.

B. Uniform Crime Reporting (UCR) Program

The Uniform Crime Reporting (UCR) Program is a nationwide, cooperative statistical effort of nearly 17,000 cities, county, and state law enforcement agencies voluntarily reporting data on crimes brought to their attention.

In 2001, Missouri instituted mandatory UCR reporting on a statewide basis.⁴³ Every law enforcement agency in the state has since been required to report crime data monthly to the Missouri State Highway Patrol (MSHP). MSHP creates and maintains computer files of the Missouri UCR data and supplies information not only to the FBI for use in national crime statistics, but also to local agencies and organizations.

The Missouri State Highway Patrol's UCR Unit is located within the Criminal Justice Information Services Division and is responsible for reviewing and approving all data submitted to Missouri's UCR Program. The MSHP's Information Systems Division submits Missouri's UCR data to the FBI's Uniform Crime Reporting Section. Each year, the FBI uses this data, along with data reported by other states, to publish *Crime in the United States*. Reports and information can be obtained from the MSHP website. Questions about the program, reports, or agency reporting status should be directed to the UCR Unit at telephone number 573-526-6278 or email: UCR@mshp.dps.mo.gov. Questions regarding operation of the website should be directed to the Missouri Statistical Analysis Center located within ISD at 573-751-9000 or email: sacmail@mshp.dps.mo.gov.

C. MULES/NCIC Training And Auditing

The MULES/NCIC (Missouri Uniform Law Enforcement System/National Crime Information Center), training and auditing program fulfills both federal and state requirements for local, state, and federal law enforcement and criminal justice agencies that have direct access to the MULES/NCIC networks. The Missouri State Highway Patrol's MULES/NCIC training and auditing program is located within the Access Integrity Unit (AIU) and is responsible for reviewing policy and training procedures, implementing standardized training and auditing procedures, and assisting Missouri law enforcement agencies regarding governing laws, access capabilities, and functions associated with the MULES/NCIC databases.

The Access and Integrity Unit (AIU) is responsible for ensuring the accuracy, completeness, and timeliness of all wanted/stolen entries into the MULES/NCIC system. Additional duties, as mandated by CJIS policy, are to ensure that validations are completed appropriately and to maintain the integrity of the data in the system. This encompasses the processing and maintenance of all ORI (Originating Agency Routing Identifier) and terminal assignments within the state of Missouri. Questions pertaining to MULES/NCIC access or requirements may be directed to the Missouri State Highway Patrol, Criminal Justice Information Services Division, Attn: AIU, P. O. Box 9500, Jefferson City, Missouri 65102.

⁴³ Chapter 43, Section 43.505 RSMo.

D. Missouri Data Exchange (MoDEX)

The Missouri Data Exchange (MoDEX) was developed in cooperation with the Missouri Department of Public Safety, the Missouri Police Chiefs Association, the Missouri Sheriffs' Association, the Missouri State Highway Patrol, the Missouri Department of Corrections, and the Office of State Courts Administrator.

MoDEX is a powerful automated investigative tool that will provide law enforcement agencies with the ability to search, link, analyze, and share criminal justice information such as incident/case reports, incarceration data, computer aided dispatch, photos, citations, collisions, and pawn data on a statewide basis to a degree never before possible.

Initially, agencies will access MoDEX via the secure MULES network. Eventually, the application, CopLink, may become available via a secure Internet Service Provider Network (ISP) accessible online by the entire Missouri law enforcement community.

Data submitted to MoDEX will conform to the National Information Exchange Model (NIEM). MoDEX will eventually interface with the National Data Exchange (N-DEX), a nationwide data sharing initiative administered by the Federal Bureau of Investigation.

For more information, please contact the Missouri State Highway Patrol's Criminal Justice Information Services Division by phone: 573-526-6153 or email: MO-DEX@mshp.dps.mo.gov.

E. Missouri Volunteer and Employee Criminal History Service (VECHS) Program

The Missouri State Highway Patrol, CJIS Division, developed the Missouri VECHS program to enable non-governmental entities that meet specific qualifying criteria to obtain state and national (FBI) criminal history record information with the submission of fingerprints and a waiver statement on current and prospective applicants, employees, and volunteers through the central repository. Generally, to be qualified to participate in the Missouri VECHS program, an entity must provide some type of care or care placement services for children, the elderly, or persons with disabilities. ("Care" includes treatment, education, training, instruction, supervision, or recreation.)

The Missouri VECHS program was implemented in order to provide access to qualified entities providing care or care placement for vulnerable citizens to Missouri closed records and federal criminal history records. Although qualified entities meeting the specifications in Section 43.540 RSMo can receive Missouri closed records, federal criminal history records are prohibited unless the qualified entity is

named in state statute or a state agency, that is authorized through statute, agrees to process and make the fitness determinations on behalf of the requesting entity. Any person can obtain their own criminal history record directly from the FBI; however, the process of sending fingerprints directly to the FBI for response can be lengthy. With the implementation of the Missouri VECHS program, private entities that meet the governing guidelines have access to state closed records and federal records through fingerprint submission to the central repository in the same manner as the state agencies listed in statute.

The Missouri VECHS program was developed based on federal legislation under the National Child Protection Act (NCPA), as amended by the Volunteers for Children Act (VCA) and the Adam Walsh Child Protection and Safety Act. For program consideration, qualified entities are required to complete an application and User Agreement. Upon approval, the qualified entity is required to have each applicant, prior to fingerprinting, sign a waiver statement.

The Missouri VECHS program does not require any fees for processing the application and User Agreement. The only costs associated with the program are those fees required for the state and federal criminal history background check. For more information about the Missouri VECHS program, please refer to the Patrol's website or call the CJIS Division at (573) 526-6345.

F. Policy Compliance Review (PCR)

The Missouri State Highway Patrol Criminal Justice Information Services (CJIS) Division developed the PCR program in the fall of 2008 following a requirement by the Federal Bureau of Investigation (FBI) and the National Crime Prevention and Privacy Compact (Compact Council). The PCR program is based on the same guiding principles used by the FBI's National Crime Information Center (NCIC) audit program and focuses on the noncriminal justice use of fingerprint-based criminal history record information. The PCR Team conducted the first reviews with state agencies in March 2009.

The purpose and goal of the PCR is to review and analyze the security requirements pertaining to the administrative, technical, and physical safeguards ensuring confidentiality of criminal history record information (CHRI). The PCR will serve as a resource providing guidelines and direction for securing correct usage, retention, dissemination, security and destruction policies in accordance with state and federal regulations.

Qualified entities that will receive a PCR on a triennial basis include, but are not limited to:

- Missouri state agencies

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- Courts
 - Municipalities
 - Law Enforcement Agencies
 - Missouri VECHS program qualified entities

The review evaluates compliance with state and federal standards by assessing the use, dissemination, and security of criminal history record information and evaluating applicable National Crime Prevention and Privacy Compact rules in addition to review of the physical records. The assessment of the PCR is compiled through the use of a pre-audit questionnaire, a detailed on-site audit questionnaire, and the use of empirical data originating from the systems of the Missouri State Highway Patrol and the United States Department of Justice. Agency evaluations are based on:

- Title 5, United States Code, Section 552 and 552a
- 28 Code of Federal Regulations 20 and 50.12
- Public Law 92-544
- State Statutes
- National Crime Prevention and Privacy Compact Rules (Compact Council)
- CJIS Security Policy
- Security and Management Control Outsourcing Standards

For questions or more information pertaining to the PCR, please contact the CJIS Division at (573) 526-6345.

G. New Computerized Criminal History Project

In November of 2008 the Missouri State Highway Patrol partnered with the Computer Projects of Illinois (CPI) to begin development of a new Computerized Criminal History System to replace the legacy CJ25 system. Utilizing CPI's Open-Fox desktop client, the new system will be web initiated and will have many exciting features that will both streamline and enhance the criminal history background check process.

Perhaps the most anticipated enhancement that the new system will offer would be the ability for the public to receive electronic criminal history responses back via the Internet. As currently envisioned, the public website will have both a personal identifier search component (name-based) and a fingerprint search component built in to its functionality. Utilizing the personal identifier component, individuals from the public can create accounts to conduct open record criminal history searches. Searches resulting in a no record response will be returned immediately on screen. Meanwhile, searches resulting in a criminal history record will be reviewed by CJIS

staff and after a review for completeness, the record results will be returned electronically within 24 to 48 hours to the requesting account.

The fingerprint search component of the website will reduce turnaround time as well. Utilizing this functionality, applicants can schedule an appointment to be fingerprinted by the State fingerprinting vendor as well as arrange for the results of their State and/or FBI criminal background check to be returned electronically to their requesting agency if the agency has a registered account with CJIS. This is expected to further cut down on response time by having the majority of fingerprint criminal background checks completed and electronically returned to the requestor within 24 hours from submission.

In addition, the system as proposed will have Rapback capability which will reduce the number of times that many applicants will have to have criminal background checks run, as well as safeguard Missouri by alerting the proper authorities the moment that an applicant is arrested subsequent to a background check being run. As envisioned, any applicant who is fingerprinted for an eligible agency will have their fingerprints flagged in the system. If that individual is ever subsequently arrested and criminal fingerprints are received, any eligible applicant agency that has previously received fingerprint search results on the individual will be electronically notified that there has been a change to his or her criminal history. If the individual is still of interest to the applicant agency then the agency may elect to request the updated criminal history electronically via their CJIS web account.

The new Missouri Computerized Criminal History System has the potential to revolutionize the criminal background check process. Completion of the system is currently scheduled for June 2011, however, certain parts of the system, such as the ability to run personal identifier searches via the Internet, will likely be completed sooner.

Conclusion

The Missouri State Highway Patrol's Criminal Justice Information Services Division has attempted with this document, to outline the processes that occur when establishing criminal history record information on an individual, the procedures and restrictions involved with dissemination, and the authority, both state and federal, that govern.

As previously mentioned, one of the primary roles of the Missouri State Highway Patrol, as the central repository, is to collect and store the information received from law enforcement agencies throughout the state. With the collection of the criminal arrest data and fingerprints, the process of criminal history record information being housed in the repository begins. Then, in turn, when requests are made for information for purposes such as employment or licensing, it is the responsibility of the repository to disseminate the information contained therein back to the civilian entity or law enforcement agency for appropriate use. Many factors influence the submission of a request for criminal history record information maintained within the state and federal databases. The process can be fairly simple when taken into account the purpose of the request, who is making the request, the authority, if any, and if the request is based on fingerprints or personal identifying information.

Whether the information is disseminated for criminal justice purposes or for non-criminal justice (civilian) purposes, the underlying fact remains that criminal history record information is confidential, is to be kept confidential, and used only for the purpose for which it was intended. Criminal history record information obtained from state and/or federal databases is extremely useful in many vocations in today's society; however, used inappropriately, can violate privacy interests of the individual being checked. The fair use of the information will prevent unlawful discrimination in employment and minimize any adverse impact that increased access could have on the successful reentry of ex-offenders into society.⁴⁴

Questions and/or comments regarding this document may be addressed to the Missouri State Highway Patrol, Criminal Justice Information Services Division, 1510 E. Elm Street, P. O. Box 9500, Jefferson City, Missouri 65102-9500.

⁴⁴ The Attorney General's Report on *Criminal History Background Checks*, June 2006, United States Department of Justice, Page 136.

Appendix

Federal Statutes Authorizing Fingerprint Checks For Non-Criminal Justice Purposes.

1. 28 U.S.C. Section 534 (2002) Note (federally chartered or insured banking industry and, if authorized by a state statute approved by the United States Attorney General (approval authority has been delegated to the FBI), state and local employment and licensing).
2. 42 U.S.C. Section 5119a (1998) (relating to providing care to children, the elderly, or disabled persons).
3. 28 U.S.C. Section 534 (2002) (relating to the pari-mutuel wagering industry (horse/dog racing)).
4. 7 U.S.C. Sections 12a and 21(b)(4)(E) (2000), (commodity futures trading industry).
5. 42 U.S.C. Section 2169 (2005) (Nuclear utilization facilities--power plants)
6. 15 U.S.C. Section 78q(f)(2) (2004) (securities industry).
7. 49 U.S.C. Sections 44935-44936(2003) (aviation industry).
8. 49 U.S.C. Section 44939 (2003) (relating to flight school training).
9. 28 U.S.C. Section 534 (2002) Note (nursing and home health care industry).
10. 49 U.S.C. Section 5103a (2005) (relating to issuance and renewal of HAZMAT-endorsed commercial driver license).
11. 5 U.S.C. Section 9101 (2000) (relating to federal government national security background checks).
12. 25 U.S.C. Sections 3205 and 3207 (2000) (relating to Indian child care).
13. 42 U.S.C. Section 13041 (1991) (relating to federal agencies and facilities contracted by federal agencies to provide child care).
14. 42 U.S.C. Sections 1437d(q) (1999) (relating to public housing and Section 8 housing).
15. 25 U.S.C. Sections 4138 (1999) (relating to Indian housing).
16. 25 U.S.C. Section 2701 (1988) (relating to Indian gaming).
17. 42 U.S.C. Section 13726 (2000) (relating to private companies transporting state or local violent prisoners).
18. 8 U.S.C. Section 1105 (2001) (relating to visa issuance or admission to the United States).
19. Executive Order 10450, 18 Fed. Reg. 2489 (Apr. 27, 1953) (follows 5 U.S.C. Section 7311 (1966) relating to applicants for federal employment).
20. Pub. L. No. 107-188 Section 201 and 212 (2002), 116 Stat. 594 (2002) (relating to handling of biological agents or toxins).
21. 46 U.S.C. Sections 70101 Note, 70105, and 70112 (2002) (relating to seaport facility and vessel security).
22. Pub. L. No. 108-458 Section 6402 (2004) (relating to private security officer employment).

Missouri State Statutes Authorizing Fingerprint Checks for Non-Criminal Justice Purposes.

1. Chapter 43, Highway Patrol, State, Section 43.530 RSMo., (Fees, method of payment--criminal record system fund; established--fund not to lapse.)
2. Chapter 43, Highway Patrol, State, Section 43.535 RSMo., (Municipal and county government, MULES criminal record review permitted--fee--fingerprinting, when--confidentiality.)
3. Chapter 43, Highway Patrol, State, Section 43.540 RSMo., (Criminal record review--definitions--Patrol to conduct review, when, procedure, confidentiality, violation, penalty--Patrol to provide forms.)
4. Chapter 43, Highway Patrol, State, Section 43.543 RSMo., (Certain agencies to submit fingerprints, use of fingerprints for background search--procedure for submission.)
5. Chapter 67, Political Subdivisions, Miscellaneous Powers, Section 67.1818 RSMo., (License, taxicab code to include administrative procedures.)
6. Chapter 168, Section 168.133 RSMo., (Criminal background checks required for school personnel, when, procedure--rulemaking authority.)
7. Chapter 210, Child Protection and Reformation, Section 210.025 RSMo., (Criminal background checks, persons receiving state or federal funds for child care, procedure--rulemaking authority.)
8. Chapter 210, Child Protection and Reformation, Section 210.487 RSMo., (Background checks for foster families, requirements--costs, paid by whom--rulemaking authority.)
9. Chapter 313, Licensed Gaming Activities, Section 313.810 RSMo., (Application, contents, fingerprints submission--investigation, commission may conduct--false information on application, penalty.)
10. Chapter 313, Licensed Gaming Activities, Section 313.220 RSMo., (Rules and regulations--procedure generally, this chapter--background checks may be required, when.)
11. Chapter 571, Weapons Offenses, Section 571.101 RSMo., (Concealed carry endorsements, application requirements--approval procedures--issuance of certificates, when--record-keeping requirements--fees.)
12. Chapter 590, Peace Officers, Selection, Training and Discipline, Section 590.060 RSMo., (Minimum standards for training instructors and centers--licensure of instructors--background check required, when.)
13. Chapter 610, Section 610.120 RSMo., (Records to be confidential--accessible to whom, purposes).

Definitions

These definitions are from the CJIS Security Policy, 28 CFR Section 20.3, the National Crime Prevention and Privacy Compact Council, and the Revised Statutes of Missouri.

- Administration of Criminal Justice*** — the performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history information, including fingerprint searches, photographs, and other indicia of identification. (Section 43.500 RSMo.)
- Access*** — the opportunity to make use of an automated information system resource. The ability to have contact with a terminal from which a transaction may be initiated. (CJIS Security Policy)
- Arrest*** — an actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked. (Section 610.100 RSMo.)
- Arrest Report*** — a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefore. (Section 610.100 RSMo.)
- Attorney General*** — the Attorney General of the United States.
- Asynchronous*** — In programming, the events are those occurring independently of the main program flow. The actions are executed in non-blocking scheme, allowing the main program flow to continue processing.
- Authorized State Agency*** — a division of state government or an office of state government designated by the statutes of Missouri to issue or renew a license, permit, certification, or registration of authority to a qualified entity. (Section 43.540 RSMo.)
- Audit*** — the independent examination of records and activities to ensure compliance with established controls, policy, and operational procedures, and to recommend any indicated changes in controls, policy, or procedures. (CJIS Security Policy)
- Background Check*** — the check of all appropriate information sources to include a state of residency and national ten-print fingerprint based record check. (CJIS Security Policy)
- Care*** — the provision of care, treatment, education, training, instruction, supervision, or recreation. (Section 43.540 RSMo.)

Central Repository — the Missouri State Highway Patrol criminal records and identification division for compiling and disseminating complete and accurate criminal history records and for compiling, maintaining, and disseminating criminal incident and arrest reports and statistics. (Section 43.500 RSMo.)

Child — any person, regardless of physical or mental condition, under 18 years of age. (Section 210.110 RSMo.)

Children's Services Providers and Agencies — any public, quasi-public, or private entity with the appropriate and relevant training and expertise in delivering services to children and their families as determined by the children's division, and capable of providing direct services and other family services for children in the custody of the children's division, or any such entities or agencies that are receiving state moneys for such services. (Section 210.110 RSMo.)

Confidential Information — information maintained by the state agency that is exempt from disclosure under the provisions of the Public Records Act or other applicable state or federal laws. The controlling factor for confidential information is dissemination. Criminal history record information is protected by federal legislation. (CJIS Security Policy)

Criminal History Record Information — information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising there from, sentencing, correctional supervision, and release. (Section 43.500 RSMo.)

Criminal History Record Information System — a system including the equipment, facilities, procedures, agreements, and organizations thereof for the collection, processing, preservation, or dissemination of criminal history record information. (28 CFR Section 20.3)

Criminal History Records — (1) information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising there from, including acquittal, sentencing, correctional supervision, or release; and (2) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system. (Compact)

Criminal Justice — activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records. (Compact)

Criminal Justice Agency — (1) courts, and (2) a governmental agency or any subunit thereof that performs the administration of criminal justice pursuant to a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice. State and Federal Inspector General Offices are included. (Compact)

Disposition — information disclosing that criminal proceedings have been concluded and the nature of the termination, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings; or disclosing that proceedings have been indefinitely postponed and the reason for such postponement. Dispositions shall include, but shall not be limited to, acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, dismissed-civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial-defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision. (28 CFR Section 20.3)

Exigent Circumstances — a sudden unexpected event that results in an apparent risk to the health and safety of an individual which necessitates immediate action on the part of the state to provide protection to that individual.

Final disposition — the formal conclusion of a criminal proceeding, at whatever stage it occurs in the criminal justice system. (Section 43.500 RSMo.)

FBI — the Federal Bureau of Investigation. (Compact)

Interstate Identification Index System or “III System” — the cooperative federal-state system for the exchange of criminal history records, and includes the National Identification Index, the National Fingerprint File, and, to the extent of their participation in such system, the criminal history record repositories of the states and the FBI. (28 CFR Section 20.3 and Compact)

Inactive — an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons: (a) a decision by the law enforcement agency not to pursue the case; (b) expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or 10 years after the commission of the offense; whichever date earliest occurs; or, (c) finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons. (Section 610.100 RSMo.)

Incident Report — a record of a law enforcement agency consisting of the date, time, specific location, name of the victim, and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency.

Investigative Report — a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties. (Section 610.100 RSMo.)

Missouri Charge Code — a unique number assigned by the Office of State Courts Administrator to an offense for tracking and grouping offenses. Beginning January 1, 2005, the complete charge code shall consist of digits assigned by the office of state courts administrator, the two-digit national crime information center modifiers, and a single digit designating attempt, accessory, or conspiracy. The only exception to the January 1, 2005, date shall be the courts that are not using the statewide court automation case management pursuant to Section 476.055 RSMo.; the effective date will be as soon thereafter as economically feasible for all other courts. (Section 43.500 RSMo.)

Missouri Criminal Record Review — a review of criminal history records and sex offender registration records pursuant to Sections 589.400 to 589.425 RSMo., maintained by the Missouri State Highway Patrol in the Missouri Criminal Records Repository. (Section 43.540 RSMo.)

MULES — Missouri Uniform Law Enforcement System, a statewide-computerized communications system provided by the Patrol designed to provide services, information, and capabilities to the law enforcement and criminal justice community in the state of Missouri. (Section 43.010 RSMo.)

National Crime Information Center or “NCIC” — the computerized information system, which includes telecommunications lines and any message switching facilities that are authorized by law, regulation, or policy approved by the Attorney General of the United States to link local, state, tribal, federal, foreign, and international criminal justice agencies for the purpose of exchanging NCIC related information. The NCIC includes, but is not limited to, information in the III System. (28 CFR Section 20.3)

National Criminal Record Review — a review of the criminal history records maintained by the Federal Bureau of Investigation. (Chapter 43, Section 43.540 RSMo.)

Non-Criminal Justice Agency — a non-governmental agency or any subunit thereof that provides services primarily for purposes other than the administration of criminal justice. (CJIS Security Policy)

Non-Criminal Justice Purposes — the uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances. (Compact)

Patrol — the Missouri State Highway Patrol. (Section 43.010 RSMo.)

Positive Identification — a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subject’s name or other non-unique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification. (Compact)

Provider — a person who has or may have unsupervised access to children, the elderly, or persons with disabilities, and is employed by or seeks employment with a qualified entity, or volunteers or seeks to volunteer with a qualified entity, or owns or operates a qualified entity. (Section 43.540 RSMo.)

Qualified Entity — a person, business, or organization, whether public or private, for profit, not for profit, or voluntary, that provides care, placement, or educational services for children, the elderly, or persons with disabilities as patients or residents, including a business or organization that licenses or certifies others to provide care or placement services. (Section 43.540 RSMo.)

Secondary Dissemination — the re-dissemination of FBI CJIS data or records from an authorized agency that has direct access to the data, to another authorized agency. (CJIS Security Policy)

State — any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. (28 CFR Section 20.3)

State Offense Cycle Number — a unique number, supplied by or approved by the Missouri State Highway Patrol, on the state criminal fingerprint card. The offense cycle number, OCN, is used to link the identity of a person, through fingerprints, to one or many offenses for which the person is arrested or charged. The OCN will be used to track an offense incident from the date of arrest to the final disposition when the offender exits from the criminal justice system. (Section 43.500 RSMo.)

Statute — an act of Congress or of a state legislature or a provision of the Constitution of the United States or of a state. (28 CFR Section 20.3)

Youth Services Agency — any public or private agency, school, or association, which provides programs, care or treatment for or which exercises supervision over minors. (Section 43.540 RSMo.)

Acronyms

AFIS — Automated Fingerprint Identification System
AIU — Access Integrity Unit
CFR — Code of Federal Regulation
CHRI — Criminal History Record Information
CJIS — Criminal Justice Information Services
DOC — Department of Corrections
FBI — Federal Bureau Of Investigation
FOIA — Freedom Of Information Act
GHQ — General Headquarters
IAFIS — Integrated Automated Fingerprint Identification System
III — Interstate Identification Index
ISD — Information Systems Division
ISP — Internet Service Provider
JIS — Justice Information System
MCRR — Missouri Criminal Records Repository
MSHP — Missouri State Highway Patrol
MOAPS — Missouri Applicant Processing Services
MoDEx — Missouri Data Exchange
MOVECHS — Missouri Volunteer and Employee Criminal History Service
MULES — Missouri Uniform Law Enforcement System
NCIC — National Crime Information Center
NCPA — National Child Protection Act
NDEX — National Data Exchange
NGE — Non-Governmental Entity
NICS — National Instant Criminal Background Check System
NIEM — National Information Exchange Model
NIST — National Institute Of Standards And Technology
OCA — Originating Case Agency
OCN — Offense Cycle Number
ORI — Originating Agency Routing Identifier
OSCA — Office Of State Courts Administrator
PCR — Policy Compliance Review
POC — Point Of Contact
QE — Qualified Entity
RAP — Record Of Arrest And Prosecution
RSMo. — Revised Statutes Of Missouri
SES — Suspended Execution Of Sentence
SID — State Identification Number
SIS — Suspended Imposition Of Sentence

TCN — Transaction Control Number (FBI)
UCR — Uniform Crime Reporting
USC — United States Code
VCA — Volunteers For Children Act

Source Documents

1. U.S. Department of Justice, Office of the Attorney General, "The Attorney General's Report On Criminal History Background Checks", June 2006.
2. Missouri Revised Statutes.
3. Fundamentals of Criminal History Reporting, Missouri State Highway Patrol, June 2002.

This document is intended as resource information. Any questions or clarification of subject matter should be directed to the Missouri State Highway Patrol, Criminal Justice Information Services Division.



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